

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FILED
2013 FEB 21 PM 3:53

MALKA FARKAS

Plaintiff

vs.

HORIZON FINANCIAL
MANAGEMENT, LLC

Defendant

Case Number:

CIVIL COMPLAINT

13 CV 1179

COMPLAINT AND JURY DEMAND

COMES NOW, Plaintiff, Malka Farkas, by and through her undersigned counsel, Bruce K. Warren, Esquire of Warren Law Group, P.C., complaining of Defendant, and respectfully avers as follows:

I. INTRODUCTORY STATEMENT

1. Plaintiff, Malka Farkas, is an adult natural person and she brings this action for actual and statutory damages and other relief against Defendant for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1337.

3. Venue in this District is proper in that Plaintiff maintains a primary residence in this district.

III. PARTIES

4. Plaintiff, Malka Farkas, (hereafter, Plaintiff) is an adult natural person residing in Monsey, NY. At all times material and relevant hereto, Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a (2).

5. Defendant, Horizon Financial Management, LLC, (hereafter, Defendant), at all times relevant hereto, is and was a corporation engaged in the business of collecting consumer debt with a primary address located at 8585 Broadway, Ste 880, Merrillville, IN 46410.

6. Defendant is engaged in the collection of debts from consumers using the telephone and mail. Defendant, is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6).

IV. FACTUAL ALLEGATIONS

7. On or about July 9, 2012 Plaintiff received a letter from Defendant offering a settlement opportunity for an alleged consumer debt originally belonging to Good Samaritan. **See EXHIBIT “A” (notice) attached hereto.**

8. The Plaintiff is said to owe \$200.00.

9. Nowhere on this letter is Defendant listed as a holder on the said alleged consumer debt.

10. On or about August 5, 2012 Plaintiff wrote a letter to the Defendant asking them to validate the alleged consumer debt in question. **See EXHIBIT “B” (notice) attached hereto.**

11. On or about August 10, 2012 Plaintiff received a letter from the Defendant requesting she pay the balance in full. **See EXHIBIT “C” (notice) attached hereto.**

12. Defendant ignored the Plaintiff's request and never validated the alleged consumer debt.

13. Defendant continued their collection efforts knowing the Plaintiff was disputing this alleged consumer debt.

14. The Defendant acted in a false, deceptive, misleading and unfair manner when they engaged in conduct the natural consequences of which is to harass, oppress, or abuse such person in connection with the collection of a debt.

15. The Defendant knew or should have known that their actions violated the FDCPA. Additionally, Defendant could have taken the steps necessary to bring their and their agent's actions within compliance of the FDCPA, but neglected to do so and failed to adequately review those actions to insure compliance with the law.

16. At all times pertinent hereto, Defendant was acting by and through their agents, servants and/or employees, who were acting with the scope and course of their employment and under the direct supervision and control of Defendant herein.

17. At all times pertinent hereto, the conduct of Defendant, as well as their agents, servants and/or employees, was malicious, intentional, willful, reckless, negligent and in wanton disregard for federal and state law and the rights of the Plaintiff herein.

18. As a result of Defendant's, conduct, Plaintiff has sustained actual damages, including, but not limited to, injury to Plaintiff's reputation, invasion of privacy, damage to Plaintiff's credit, out-of-pocket expenses, physical, emotional and mental pain and anguish and pecuniary loss and he will continue to suffer same for an indefinite time in the future, all to his great detriment and loss.

COUNT I – FDCPA

19. The above paragraphs are hereby incorporated herein by reference.

20. At all times relevant hereto, Defendant was attempting to collect an alleged debt which was incurred by Plaintiff for personal, family or household purposes and is a “debt” as defined by 15 U.S.C. § 1692a(5).

21. The foregoing acts and omissions constitute violations of the FDCPA, including but not limited to, violations of:

- | | |
|---------------|--|
| §§ 1692d: | Any conduct the natural consequence of which is to harass, oppress, or abuse any person |
| §§ 1692e: | Any other false, deceptive, or misleading representation or means in connection with the debt collection |
| §§ 1692e(10): | Any false representation or deceptive means to collect a debt or obtain information about a consumer |
| §§ 1692f: | Any unfair or unconscionable means to collect or attempt to collect the alleged debt |
| §§ 1692g(b): | Collector must cease collection efforts until debt is validated |

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant, Horizon Financial Management, LLC for the following:

- a. Actual damages;
- b. Statutory damages pursuant to 15 U.S.C. § 1692k;
- c. Reasonable attorney’s fees and litigation expenses, plus costs of suit; and

d. Such additional and further relief as may be appropriate or that the interests of justice require.

V. JURY DEMAND

Plaintiff hereby demands a jury trial as to all issues herein.

Respectfully submitted,

WARREN LAW GROUP, PC

Date: February 1, 2013

BY: 
Bruce K. Warren, Esquire

Warren Law Group, PC
58 Euclid Street
Woodbury, NJ 08096
P: (856)848-4572
F: (856)324-9081
Attorney for Plaintiff

EXHIBIT "A"

Horizon Financial Management

8585 S. Broadway, Suite 880 ■ Merrillville, IN 46410-5661

Toll-Free: (877) 794-1003

Office Hours: 8:00 a.m. to 5:00 p.m.

July 9, 2012

New York City License #1374497

Client: Good Samaritan

Account: [REDACTED]

Date of Service:

11/02/11

Balance Due:

\$200.00

Dear Malka Farkas:

The creditor listed above has authorized Horizon Financial Management collection agency to offer you this special opportunity to settle your healthcare account. Please be advised that your account has been transferred to Horizon Financial Management for future collections.

If payment in full is received within the next forty five (45) days of receiving this notice, our client is offering you a 25% discount on your account balance. We are not required to renew this offer.

The maximum discount amount cannot exceed \$750.00.

Unless you notify this office within thirty (30) days after receiving this letter that you dispute the validity of this debt or any portion thereof, this office will assume the debt is valid. If you notify this office within 30 days from receiving this notice, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request, within 30 days from receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

This is a communication from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

Sincerely,

Ms. Cook

*****SAVE POSTAGE AND TIME*****

You can reference your account information or make a payment by credit card or personal check using our free automated telephone system.

Please call 877-794-1003 and reference account number [REDACTED]

*****PLEASE DETACH AND RETURN BOTTOM PORTION WITH YOUR PAYMENT*****



8585 S. Broadway Ste 880
Merrillville IN 46410-5661

CHANGE SERVICE REQUESTED

Patient: Malka Farkas

Acct. #: [REDACTED]

Client Acct. #: [REDACTED]

July 9, 2012

SEND PAYMENTS TO:

Good Samaritan
Lockbox # 404310
Atlanta, GA 30384-4310



Malka Farkas

BALANCE DUE:	AMOUNT PAID:
\$200.00	\$

EXHIBIT “B”

August 5, 2012

From:
Malka Farkas
[REDACTED]

To:
HORIZON FINANCIAL MANAGEMENT
8585 S. Broadway, Suite 880
Merrillville, IN 46410-5661

Re: Validation of Account # [REDACTED]

Dear Ms. Cook:

This letter is lawful notification to HORIZON FINANCIAL MANAGEMENT, as the first step of due process of law pursuant to the Bill of Rights and the Federal Constitution, in particular Articles I, IV, V, VII, and IX of the Amendments. Please take Notice that I Malka Farkas CONDITIONALLY ACCEPTS YOUR CLAIM UPON BONA FIDE PROOF (in good faith and without deceit) that your claim is lawful and valid.

Please take lawful notice that in order to effect this BONA FIDE PROOF, HORIZON FINANCIAL MANAGEMENT via a legally authorized representative is lawfully required and hereby demanded to respond point by point in Truth, Fact, and Evidence to each and every item set forth in this correspondence pursuant to the Fair Credit Reporting Act 15 U.S.C. §1681, before I or my Authorized Representative can make an offer to settle HORIZON FINANCIAL MANAGEMENT's alleged claim in this matter.

Please provide the following:

1. A copy of the contract that binds myself, a Natural Person, and HORIZON FINANCIAL MANAGEMENT, a creature of the State who is defined as an ARTIFICIAL PERSON:
2. PROOF OF CLAIM via certified, notarized, specific, and relevant documents that HORIZON FINANCIAL MANAGEMENT:
 - a. Has any contract or agreement which lawfully compels this Natural Person to accept and/or respond to any communications from HORIZON FINANCIAL MANAGEMENT.
 - b. Is a lawful and valid party in interest in this matter.
 - c. Is not an unrelated third party.
 - d. Is not an unrelated third party debt collector.
 - e. Did not purchase this alleged debt for an agreed upon cost from an alleged other COMPANY, CORPORATION, or Party.
 - f. Is not acting on its own behalf and/or interests in this instant matter.
 - g. When and how did you get permission to obtain my consumer credit report.

Please have your legally authorized representative respond via signed affidavit, under penalty of perjury, and enclose copies of all relevant documents that demonstrate BONA FIDE PROOF OF YOUR CLAIM within 10 days of receipt of this letter, via certified mail.

This is not a request for "verification" or proof of my mailing address, but a request for "VALIDATION" made pursuant to the above named Title and Section.

If your offices fail to respond to this validation request within 10 days from the date of your receipt, all references to this account must be deleted and completely removed from all of my 3 consumer credit report files Experian, Trans Union, Equifax, and a copy of such deletion request shall be sent to me immediately.

Failure to provide a lawfully valid response, as stipulated, this would be in agreement that HORIZON FINANCIAL MANAGEMENT and their representatives have no BONA FIDE PROOF OF CLAIM in this instant matter which is your lawful, legal and binding agreement with and admission to this fact as true, correct, legal, lawful and binding upon you, in any court, anywhere in America, without your protest or objection or that of those who represent you. Your silence is your acquiescence.

Dated: August 5, 2012

All Rights Reserved,
Respectfully submitted,

By: _____
Malka Farkas, American Citizen
Authorized Representative
[REDACTED]

Sent by Certified Mail # 7011 2970 0003 5227 7272

U.S. Postal Service TM	
CERTIFIED MAIL [®] RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
MERRILLVILLE IN 46410	
OFFICIAL USE	
Postage	\$ 0.45
Certified Fee	\$2.95
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$ 3.40
Sent To	
Street, Apt. No., or PO Box No.	
City, State, ZIP+4	
MERRILLVILLE IN 46410	
PS Form 3800, August 2006 See Reverse for Instructions	

7011 2970 0003 5227 7272

MONROE NY 10950
AUG - 6 2012
08/06/2012

EXHIBIT “C”

Horizon Financial Management

8585 S. Broadway, Suite 880 ■ Merrillville, IN 46410-5661

Toll-Free: (877) 794-1003

Office Hours: 8:00 a.m. to 5:00 p.m.

August 10, 2012

New York City License #1374497

Client: Good Samaritan

Account: [REDACTED]

Date of Service:

11/01/11

Balance Due:

\$200.00

Dear Malka Farkas:

This second notice is to inform you that you have not responded to paying the balance in full within an acceptable time period as requested by our previous letter regarding this account. You should send payment for the balance in full immediately, or call us toll free at 877-794-1003 to make adequate payment arrangements.

Your failure to pay this debt may result in further collection activity.

To ensure proper credit of your payment you should send your payment along with this letter to the address listed on this letter. If you have any questions or are unable to make your payment, please contact this office at the address or toll free phone number listed on this letter.

This is a communication from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

Sincerely,

Ms. Cook

*****SAVE POSTAGE AND TIME*****

You can reference your account information or make a payment by credit card or personal check using our free automated telephone system.

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Acct. #: [REDACTED]

Client Acct. #: [REDACTED]

August 10, 2012



Malka Farkas

SEND PAYMENTS TO:

Good Samaritan
Lockbox # 404310
Atlanta, GA 30384-4310

BALANCE DUE:

\$200.00

AMOUNT PAID:

\$